

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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KIRSHA BROWN-YOUNGER,

Plaintiff,

vs.

STATE OF NEVADA OFFICE OF  
LABOR COMMISSIONER,

Defendant,

2:11-cv-00539-GMN-RJJ

O R D E R

Motion for Judicial Disqualification (#30)  
Additional Motion to Disqualify (#42)

This matter comes before the Court on two motions by the Plaintiff, her Motion for Judicial Disqualification (#30) and an Additional Motion to Disqualify (#42).

**BACKGROUND**

Kirsha Brown-Younger sought to file a complaint against the Nevada Office of Labor Commissioner in forma pauperis. The Court held a hearing on her Motion for Leave to Proceed in forma pauperis (#1) on May 23, 2011. At the hearing, the Court instructed Brown-Younger to file a new application to proceed in forma pauperis and to amend her complaint, which was deficient. In her complaint, Brown-Younger alleges only that the Nevada Office of Labor Commissioner was negligent by failing to enforce the Federal Labor Standards Act “in a matter that would render Plaintiff, Kirsha Brown-Younger, a settlement...” Complaint at 3, Attached as Exhibit 1 to Application to Proceed in forma pauperis (#1).

Brown-Younger alleges that, during the hearing, Magistrate Judge Johnston was prejudiced and biased against her because of her disability, mental health, and that he violated

her constitutional rights. She also alleges that he continues to exercise partiality in his orders in favor of the Labor Commissioner, that he has refused to consider evidence of her income, and that he has violated FED. R. CIV. P. 11.

#### DISCUSSION

Personal bias or prejudice is grounds for judicial disqualification if the favorable or unfavorable disposition or opinion is somehow wrongful or inappropriate, either because it is undeserved, or because it rests upon knowledge that the subject ought not to possess. *Liteky v. United States*, 510 U.S. 540, 550 (1994). A judge must recuse himself in any proceeding if a reasonable person with knowledge of all the facts would conclude that his impartiality might reasonably be questioned. 28 U.S.C. § 455(a); *Perry v. Schwarzenegger*, 630 F.3d 909, 911 (9th Cir. 2011). In order to determine whether a judge should be disqualified, a party must file a timely and sufficient affidavit stating the facts and the reasons for the belief that bias or prejudice exists. 28 U.S.C. § 144. Vague accusations do not satisfy the obligation to provide these facts and reasons. *In re Complaint of Judicial Misconduct*, 584 F.3d 1230, 1231 (9th Cir. 2009).

Here, Brown-Younger failed to submit an accompanying affidavit, and the motions only make vague accusations of prejudice, bias, and partiality. It appears that the main reason Brown-Younger seeks to disqualify Magistrate Judge Johnston is because she disagrees with the outcome of certain orders. She filed an appeal on those orders with the Ninth Circuit Court of Appeals. Her appeal was denied. *See*, Order Dismissing Appeal (#48).

Brown-Younger fails to identify any specific fact or reason that would support her assertions that Magistrate Judge Johnston is biased or prejudiced against her, or that he is inappropriately favoring Defendant. Further, she provides no information regarding the alleged violation of Fed. R. Civ. P. 11 by the Court.

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**CONCLUSION**

Based on the foregoing, and good cause appearing therefore,

IT IS HEREBY ORDERED that Plaintiff's Motion for Judicial Disqualification (#30) is  
**DENIED.**

IT IS FURTHER ORDERED that Plaintiff's Additional Motion to Disqualify (#42) is  
**DENIED.**

DATED this 11th day of July , 2011.

  
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ROBERT J. JOHNSTON  
United States Magistrate Judge